



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

#### [EPA-R01-OAR-2018-0178; FRL-9981-40-Region 1]

#### **Air Plan Approval; Connecticut; 1997 8-hour Ozone Attainment Demonstration**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the ozone attainment demonstration portion of a State Implementation Plan (SIP) revision submitted by the State of Connecticut to meet the Clean Air Act (CAA) requirements for attaining the 1997 8-hour ozone national ambient air quality standard (NAAQS). The EPA is approving Connecticut's demonstration of attainment of the 1997 8-hour ozone NAAQS for the New York-Northern New Jersey-Long Island, NY-NJ-CT moderate 1997 8-hour ozone nonattainment area (hereafter, the NY-NJ-CT area or the NY-NJ-CT nonattainment area). In addition, the EPA is approving Connecticut's reasonably available control measures (RACM) analysis. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2018-0178. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Office of Ecosystem Protection, Air Quality

Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Eric Wortman, Air Permits, Toxics, and Indoor Programs Unit, U.S. Environmental Protection Agency, EPA Region 1 Regional Office, 5 Post Office Square – Suite 100, (Mail Code OEP05-2), Boston, MA 02109-3912, phone number: (617) 918-1624, fax number: (617) 918-0624, email: wortman.eric@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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### **I. Background and Purpose**

On May 25, 2018 (83 FR 24259), the EPA published a Notice of Proposed Rulemaking (NPRM) for the State of Connecticut. In the May 25, 2018 proposed rulemaking action, the EPA proposed to approve the portion of a Connecticut SIP revision submitted on August 8, 2017 which demonstrates attainment of the 1997 ozone NAAQS. The EPA also proposed to approve the associated RACM analysis for the same area. Connecticut previously submitted an initial attainment demonstration for the 1997 ozone NAAQS for the Connecticut portion of the NY-NJ-CT area on February 1, 2008.

This action addresses Connecticut's demonstrations of attainment of the 1997 8-hour ozone standard and associated RACM analysis for the Connecticut portion of the NY-NJ-CT area, submitted

by Connecticut on February 1, 2008 and August 8, 2017. The EPA is taking separate action on the 2011 base year emission inventories, RFP plans, motor vehicle emission budgets, and contingency measures submitted as part of the August 8, 2017 SIP revisions in a forthcoming **Federal Register** document.

## **II. Summary of Action**

As discussed in the Federal Register at 83 FR 24259, May 25, 2018, proposed rulemaking, the EPA reviewed the photochemical grid modeling used by Connecticut in its August 8, 2017 SIP submittal to demonstrate attainment of the 1997 ozone NAAQS and determined the modeling meets the EPA's guidelines and is acceptable to the EPA. Air quality monitoring data for 2014-2016 also demonstrates attainment of the 1997 8-hour ozone standard throughout the NY-NJ-CT area. The purpose of the attainment demonstration is to demonstrate how, through enforceable and approvable emission reductions, an area will meet the standard by the attainment date. The purpose of the RACM analysis is to show that the State has considered all reasonable available control measures to achieve attainment of the 1997 8-hour ozone standard. All necessary ozone control measures have already been adopted, submitted, approved and implemented. Also discussed in further detail in the Federal Register at 83 FR 24259, May 25, 2018, proposed rulemaking and based on (1) the State following the EPA's modeling guidance, (2) the modeled attainment of 1997 standard, (3) the air quality monitoring data for 2014-2016, and (4) the implemented SIP-approved control measures, the EPA is approving the attainment demonstration and RACM analysis for the 1997 ozone NAAQS for the Connecticut portion of the NY-NJ-CT area. The EPA is not taking action on the attainment demonstration and RACM analysis for the 2008 ozone NAAQS at this time.

Other specific requirements of an attainment demonstration and the rationale for the EPA's proposed action are explained in the NPRM and will not be restated here. The EPA received two comments during the comment period. Although one comment was partially supportive of the EPA's

proposed action, the comments otherwise discuss subjects outside the scope of an attainment demonstration action, do not explain (or provide a legal basis for) how the proposed action should differ in any way, and make no specific mention of the proposed action. As such, they are not germane and do not require further response to finalize the action as proposed.

### **III. Final Action**

The EPA is approving the attainment demonstration and RACM analysis for the Connecticut portion of the NY-NJ-CT area for the 1997 ozone NAAQS. This rulemaking addresses the EPA's obligations to act on Connecticut's February 1, 2008 SIP revision for the 1997 ozone NAAQS, as well as the attainment demonstration and RACM analysis portion of the August 8, 2017 SIP submittal for the 1997 ozone NAAQS for the Connecticut portion of the NY-NJ-CT area.

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of

the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 6, 2018.

Alexandra Dunn,  
Regional Administrator,  
EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart H - Connecticut**

2. Section 52.377 is amended by adding paragraph (s) to read as follows:

**§ 52.377 Control strategy: Ozone.**

\* \* \* \* \*

(s) *Approval*—An attainment demonstration for the 1997 8-hour ozone standard to satisfy requirements of section 182(c)(2)(A) of the Clean Air Act, and a Reasonably Available Control Measure (RACM) analysis to satisfy requirements of section 172(c)(1) of the Clean Air Act for the New York-Northern New Jersey-Long Island (NY-NJ-CT) ozone nonattainment area, submitted by the Connecticut Department of Energy and Environmental Protection. This rulemaking addresses the EPA's obligations to act on Connecticut's February 1, 2008 SIP revision for the 1997 ozone NAAQS, as well as the attainment demonstration and RACM analysis portion of the August 8, 2017 SIP submittal for the 1997 ozone NAAQS for the Connecticut portion of the NY-NJ-CT area.

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